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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,598	12/20/2001	Jeanmarie Hajla	095199/00008	2921
31013	7590	02/10/2004	EXAMINER	
KRAMER LEVIN NAFTALIS & FRANKEL LLP INTELLECTUAL PROPERTY DEPARTMENT 919 THIRD AVENUE NEW YORK, NY 10022			FULTON, CHRISTOPHER W	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

W

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/028,598	HAJLA, JEANMARIE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher W. Fulton	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5-27-03</u>   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on February 28, 2003 and November 10, 2003 have been approved with respect to figures 1-3.

A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second rods crossing at an angle between 0 and 90 degrees as stated in claims 21 and 22 must be shown or the feature(s) canceled from the claim(s). The drawings show the first and second rods crossing at 90 degrees as stated in claims 7 and 17. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nejad-Sattari in view of Schulte et al.

The device as claimed is substantially disclosed by Nejad-Sattari in figures 1 and 3 which show a frame 100 with indicia 124,130 releasably attached to a computer monitor 170, but lacks two slidable intersecting rods to locate an exact point on the monitor and the various attaching means and materials claimed for the frame.

Schulte et al teaches using slidably adjustable rods 3 that cross at various angles attached to a scaled frame to locate exact points within the frame. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the sliding intersecting rods on the frame of Nejad-Sattari as taught by Schulte et al to locate an exact point on the monitor screen.

With respect to the attaching means and materials of the frame that is attached to the computer monitor, it is old and well known to attach frames of various materials by various attaching means (such as a glare guard which is held by friction over the monitor) to existing monitors for added after market features. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use various plastics, metals, or woods with various attaching means such as friction, magnets, adhesive etc in the combination of Nejad-Sattari and Schulte et al as common materials used in add on features to existing monitors.

*Response to Arguments*

5. Applicant's arguments filed November 10, 2003 have been fully considered but they are not persuasive. The argument that the Nejad-Sattari reference does not disclose the device being "releasably attached" to the monitor in the text, but "freely hanging in the center of the monitor display (assumably held there by a person)" is not persuasive because while the text does not explicitly state that the device is releasably attached, the figures show the device attached to the monitor display in figure 3 and not attached to the monitor display in figure 1, therefore the reference does disclose the device being releasably attached to a monitor screen since the figures are considered part of the disclosure. The argument with regard to the intended use of the device is also not persuasive since in an apparatus claim the structure of the device and not the intended use of the device is the patentably distinctive feature. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both devices have frames with scales thereon with the base reference used for scale determination and the teaching reference used for geometrical determination (which could include area col. 1 lines 47+ which is used in scale determination). The teaching reference also teaches using movable threads (rods) to define lines, areas, or points in the frame. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use movable threads in the base reference for the

added flexibility of a smaller determination area or locating points in the frame. The argument that Schulte et al does not teach using rods is not persuasive since no structural limitation has been presented that would structurally prohibit the threads of Schulte et al from broadly being interpreted as rods.

*Conclusion*

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (703) 308-3389. The examiner can normally be reached on M,T,Th,F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers

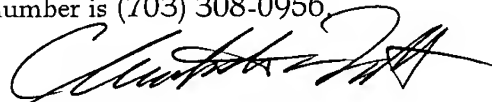
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for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

A handwritten signature in black ink, appearing to read 'Christopher W. Fulton', written in a cursive style.

Christopher W. Fulton  
Primary Examiner  
Art Unit 2859

CWF

February 4, 2004